

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

04-CR-96-A

OWEN G. BYRNE, II,

Defendant.

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**FINDINGS OF FACT AND**  
**ORDER EXCLUDING TIME UNDER**  
**THE SPEEDY TRIAL ACT**

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**ON** November 3, 2005, the Court held a status conference with counsel for the respective parties, to reschedule the trial date.

**AT** the November 3, 2005 status conference, Herbert L. Greenman ("Greenman"), counsel for the defendant, represented to the Court that other trial commitments prevented him from adequately preparing for trial and going to trial in this case until late January of 2006, that he had discussed this with his client (as well as his client's right to a speedy trial) and that the client had no objections to a delay of his trial until Greenman was available for trial, and on that basis,

**THE COURT FINDS**, pursuant to 18 U.S.C. §§ 3161(h)(8)(B)(i) and (iv) that a failure to continue this case would require the defendant to obtain new counsel and thus deny him continuity of

counsel, deny counsel for the defendant reasonable time to prepare for trial, taking into account the exercise of due diligence, and make the continuation of this case impossible thus resulting in a miscarriage of justice, and based on these findings,

**THE COURT FURTHER FINDS**, pursuant to 18 U.S.C. § 3161(h)(8)(A), that the ends of justice served by granting a continuance outweigh the best interest of the public and the defendant in a speedy trial, and on the basis of these findings it is

**ORDERED** that this case is continued to 9:30 a.m., January 24, 2006 for trial, and it is further

**ORDERED** that the time between November 8, 2005 and January 24, 2006 shall be excluded in computing the time within which the trial of this case must commence, there being thirty-five (35) days remaining on the speedy trial clock in this case.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: November 4 , 2005